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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Federal Communications Commission  
Office of the Secretary

ORIGINAL  
FILE

In the Matter of  
  
Amendment of Sections  
90.631(g) and (h) of the  
Commission's Rules and  
Regulations Concerning Wide  
Area Specialized Mobile  
Radio and Business Radio  
Systems

RM-8029

To: The Commission

REPLY COMMENTS  
OF THE  
UTILITIES TELECOMMUNICATIONS COUNCIL

Pursuant to Section 1.405 of the Commission's rules, the Utilities Telecommunications Council (UTC) submits the following comments in reply to the statements filed with respect to the Petition for Rule Making of the National Association of Business and Educational Radio (NABER) in the above-captioned matter.

The Southern California Gas Company (SCG) and the Utilities Telecommunications Council (UTC) opposed NABER's proposals primarily on the ground that the relief requested would go far beyond what is reasonably required to satisfy NABER's principal concern; namely, that Business Radio and Specialized Mobile Radio (SMR) licensees may not reuse frequencies, on a primary basis, within 70 miles of an existing transmitter site. SCG and UTC both noted that the

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authorization of wide-area SMR or Business Radio systems would not promote efficient use of the spectrum, and, because of intercategory sharing, could lead to depletion of Industrial/Land Transportation channels otherwise available for non-commercial radio systems.<sup>1/</sup>

Significantly, the other Commenters offered only lukewarm support for the proposal. Fleet Call, Inc. expressed the strongest support, but opposed consideration of the NABER petition "in a vacuum."<sup>2/</sup> Similarly, the American Mobile Telecommunications Association, Inc. (AMTA) recommended consideration of NABER's proposals only in the context of a broader re-evaluation of 800 MHz and 900 MHz licensing policies.<sup>3/</sup> Finally, the American Petroleum Institute (API) agreed with the "concept" of the NABER petition -- that the wide-area rules should be amended -- but disagreed that SMR licensees should be eligible for wide-area status or that all Business Radio applicants should be eligible for wide-area licensing on a primary basis.<sup>4/</sup>

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<sup>1/</sup> Comments of SCG, at pp. 6-7.

<sup>2/</sup> Comments of Fleet Call, at pp. 3-4.

<sup>3/</sup> Comments of AMTA, at p. 3.

<sup>4/</sup> Comments of API, p. 6. As a counterproposal, API suggested that the Commission "eliminate the secondary  
(continued...)"

The Comments confirm that expansion of wide-area licensing to SMR applicants or the treatment of all Business Radio remote stations as "primary" will not lead to efficient spectrum use. AMTA correctly notes the potential abuse that could arise if an SMR licensee is permitted to short-space with itself, and thereby prevent reassignment of unloaded frequencies to wait-list applicants.<sup>5/</sup> SCG notes that, through "aggregate loading," an SMR licensee could secure access to many more channels than its loading would otherwise justify.<sup>6/</sup> Along the same lines, API points out that because of the commercial nature of the SMR service, the ability to secure channels on a wide-area basis could give rise to the use of such authorizations for anti-competitive purposes.<sup>7/</sup>

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<sup>4/</sup>(...continued)  
status of remote and satellite stations for an applicant that can justify a legitimate requirement for these additional stations equivalent to the public interests served by the systems operated by the persons currently eligible for this treatment under Section 90.631(g)." API Comments, at p. 6. Although this formulation would be preferable to NABER's proposal, UTC would note that the limited form of relief suggested by API could just as easily be requested by rule waiver.

<sup>5/</sup> Comments of AMTA, at p. 4.

<sup>6/</sup> Comments of SCG, at p. 6.

<sup>7/</sup> Comments of API, at p. 6.

NABER's petition fails to address any of these critical issues. Absent consideration of the proposal's overall impact on efficient use of the spectrum and the continued availability of spectrum for public service entities and other non-commercial users, the proposal must be dismissed.

WHEREFORE, THE PREMISES CONSIDERED, the Utilities Telecommunications Council respectfully urges the Commission to deny the subject Petition for Rule Making.

Respectfully submitted,

UTILITIES TELECOMMUNICATIONS  
COUNCIL

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Dated: August 27, 1992

# **CERTIFICATE OF SERVICE**

I, Kim Winborne, hereby certify that I have caused to be sent, by first class mail, postage prepaid, this 27th day of August, 1992, a copy of the foregoing "Reply Comments of the Utilities Telecommunications Council" to the following:

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